

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

G3 ENTERPRISES, INC.,

Plaintiff,

v.

FORTRESS NUTRITION, LLC,

Defendant.

Case No. 1:22-cv-01551-JLT-EPG

ORDER TO FILE MOTION FOR
DEFAULT JUDGMENT

(ECF NO. 19).

Plaintiff filed this action against Defendant Fortress Nutrition, LLC on November 30, 2022. (ECF No. 1). The complaint asserts that Defendant breached a repayment agreement and brings three causes of action: (1) breach of contract; (2) open book account; and (3) account stated.

After Defendant failed to appear and respond to the complaint, Plaintiff obtained a clerk's entry of default. (ECF No. 9). On February 22, 2023, Plaintiff moved for default judgment under Federal Rule of Civil Procedure 55(b)(2). (ECF No. 11). On March 9, 2023, the Court recommended that Plaintiff's motion for default judgment be denied without prejudice because Plaintiff failed to explain how service was achieved, failed to address the relevant factors regarding an entry of default judgment, and failed to justify an award of attorney fees and interest. (ECF No. 18). Plaintiff filed no objections, and the District Judge adopted the recommendation on March 31, 2023, denying the motion for default judgment without prejudice, and referring the case back for further proceedings. (ECF No. 19). Thus, the Court will set a deadline for Plaintiff

1 to file a revised motion for default judgment.

2 Accordingly, IT IS ORDERED as follows:

- 3 1. By no later than May 3, 2023, Plaintiff shall file a revised motion for default
4 judgment, complete in itself, and without reference to the prior motion for default
5 judgment and supporting documents.¹
- 6 2. Plaintiff's revised motion for default judgment shall provide developed argument,
7 including specific citation to the record and relevant legal authority, in addressing
8 the requirements discussed in the Court's findings and recommendations (ECF No.
9 18) and any other applicable requirements. *See* Fed. R. Civ. P. 7(b)(1)(B) (noting
10 that motions must "state with particularity the grounds for seeking the order").
- 11 3. Failure to comply with this order may result in the dismissal of this action.

12 IT IS SO ORDERED.

13 Dated: April 3, 2023

14 /s/ Eric P. Shroy
15 UNITED STATES MAGISTRATE JUDGE

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25 ¹ If Plaintiff believes that it cannot show proper service on Defendant, it may alternatively file a response
26 showing cause why the time period to serve Defendant under Federal Rule of Civil Procedure 4(m) should
27 be extended and proposing a new date to accomplish service. Fed. R. Civ. P. 4(m) ("If a defendant is not
28 served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the
plaintiff--must dismiss the action without prejudice against that defendant or order that service be made
within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time
for service for an appropriate period.").